

Name of meeting: Licensing Panel

Date: Thursday 12 October 2017, at 11:00, Meeting Room 4, Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: APPLICATION FOR REVIEW HEARING UNDER S51 LICENSING ACT 2003 – Kingsgate News, 14 Cross Church Street, Huddersfield. HD1 2PT.

Purpose of report: To determine the application

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Director & name Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance? Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	No financial implications If yes give date No
Cabinet member portfolio	Give name of Portfolio Holder Cllr Mather

Electoral wards affected: Newsome Ward

Ward councillors consulted: N/A

Public or private: Public

1. Summary

On 29 August 2017 West Yorkshire Police made an application for the review of the premises licence under Section 51(1) of the Licensing Act 2003. The applicant believes that two of the four Licensing objectives are not being achieved at this premise. These objectives being:

- The prevention of crime and disorder
- Public safety

Full details of the grounds for the review are contained in the attached review application at **Appendix 1**.

2. Information required to take a decision

The key information required to make a decision is contained in the initial application from West Yorkshire Police. Below is the background information relating to the premise and its licence.

The premises has benefited from the premises licence, PR(A)1623 since March 2017, a copy of the licence can be seen at **Appendix 2**. Mr Mer Zada has been the premises licence holder and designated premises supervisor since the premises opened.

3. Implications for the Council

3.1 Policy considerations (extracts from Kirklees Licensing Policy 2015-2020).

Para 2.3 Licensing Objectives

The Policy promotes the four licensing objectives contained in the Act and each has equal weight.

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance;
- The protection of children from harm;

Para 7.9 The Licensing Authority will determine any application by considering the Act, the statutory guidance, this Policy and the four licensing objectives including how it may support other key aims, strategies and objectives.

Para 7.10 The following factors would normally be considered (although other relevant matters may be considered as the individual case dictates):

- The type of use, the numbers and type of customers likely to attend the premises;
- The proposed hours of operation;
- The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that would be used by the customers;
- The impact of car parking on local residents or businesses;
- The scope for mitigating any impact;
- How often the activity occurs.

and, in considering any application the Licensing Authority may also take into account

- historical evidence, whether favourable or adverse, relating to activities carried out at the premises, especially on local residents or businesses;
- and where adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

3.2 The following provisions of the Secretary of State's guidance apply to this application:

Paras 11.1 – 11.30 – Reviews

Paras 2.1 – 2.5 Crime and disorder

Paras 2.21 – 2.30 Protection from children from harm

4. Other Representations

None

5. Consultees and their opinions

6.1 Advertising

The responsible authorities defined under Section 13 (4) of the Licensing Act 2003 have all received a copy of the application for review. Additionally in accordance with regulation 39 of the Licensing Act 2003 (Premises Licences and Club Certificates) Regulations 2005, Officers from Kirklees Licensing Service arranged for advertisement of the review including being posted on the premises for 28 days and on the public notice board at the licensing office. Interested parties and responsible authorities are therefore allowed to make additional representations during that 28 day period. The period of advertisement ended on **26 September 2017**.

No response was received from each of the responsible authorities; however information from Environmental Health is contained in the representation made by Licensing.

6. Next steps

Not applicable

7. Officer recommendations and reasons

In determining the application the panel can take such any of the steps as it considers necessary for the promotion of the licensing objectives, which are:

- Issue warning with licence unaffected;
- modify conditions of the licence;
- exclude a licensable activity from the scope of the licence;
- remove the designated premise supervisor;
- suspend the licence for a period not exceeding 3 months;

- revoke the licence

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

8. Cabinet portfolio holder recommendation

Not applicable

9. Contact officer and relevant papers

Stephanie Mashiter – Assistant Licensing Officer – 01484 221000 Ext 70530

Appendix 1 – Application for review from West Yorkshire Police
Appendix 2 – Premises Licence PR(A)1623

10. Background Papers and History of Decisions

Not applicable

11. Assistant Director responsible

Joanne Bartholomew

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APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE UNDER THE LICENSING ACT 2003

Please read the following instructions first

Before completing this form, please read the guidance notes at the end of the form. If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I, (insert name of applicant) RICHARD WOODHEAD

- Apply for the review of a Premises Licence under Section 51
Apply for the review of a Club Premises Certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 - Premises or Club Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description:

Kingsgate News, 14 Cross Church Street

Town/City: Huddersfield

Postcode: HD1 2PT

Name of premises licence holder or club holding club premises certificate (if known):

Mr Mer Zeda

Number of premises licence or club premises certificate (if known): pr (a) 1623

Part 2 - Applicant details

Please 'check' appropriate box(es)

I am:

- 1. An interested party (please complete A or B below)
(a) a person living in the vicinity of the premises
(b) a body representing persons living in the vicinity of the premises
(c) a person involved in business in the vicinity of the premises
(d) a body representing persons involved in business in the vicinity of the premises
2. A responsible authority (please complete C below)
3. A member of the club to which this application relates (please complete A below)

A - Details of individual applicant

Surname:

Forename(s):

I am 18 years old or over: []

Current postal address if different from premises address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):



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B – Details of other applicant

Surname: _____ Forename(s): _____
 Address: _____
 Town/City: _____ Postcode: _____
 Daytime contact telephone number: _____
 E-mail address (optional): _____

C – Details of responsible authority applicant

Mr

Surname: WOODHEAD Forename(s): RICHARD
 Address: West Yorkshire Police Licensing, Flint Steet
 Town/City: Huddersfield Postcode: HD1 6LG
 Daytime contact telephone number: _____
 E-mail address (optional): _____

This application to review relates to the following licensing objective(s): (Please 'check' one or more boxes)

- (a) The prevention of crime and disorder
- (b) Public Safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

State the ground(s) for review (please read Guidance note 1):

On Saturday the 22nd July 2017 a joint visit was carried out by West Yorkshire Police and West Yorkshire Trading Standards , where a large number of none duty paid goods were discovered. The tobacco products were not destined for the UK market, and were incorrectly marked and not compliant with the tobacco and related product regulations 2016. The actions of the premises licence holder, who is also the DPS has impacted on both the public safety licensing objective, and the crime prevention objection.

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A joint operation was carried out by West Yorkshire police and trading standards on Sat July 22nd 2017 to a number of town centre shops retailing alcohol and tobacco products. Along with the officers a sniffer dog was used to help identify any areas within the shop where tobacco was stored.

The premises Kingsgate News, was entered at 22.29hrs and searched, this premises has only just had a premises licence granted on the 18th April 2017.

The dog indicated that a secret room was behind wooden panelling on the first floor of the shop. To gain entry to this room a compact disk had to be entered into a slot, that tripped a micro switch, that then released the magnetic door locks. Within the room a large amount of none duty paid tobacco products were discovered, approximately 42,800 cigarettes and around 10250 grams of tobacco. The full break down is listed on the attach statement from trading standards.

The actions of selling none duty paid tobacco products is a criminal offence, although selling of cigarettes in not a licensable activity the crime and disorder objective along with public safety have been impacted upon by the actions of the staff and the premises licence holder

The offence of possession and sale of unmarked tobacco products is a relevant conviction under the licensing act (section 8G of the tobacco products duty act 1979), as is, the use of premises for the sale of unmarked tobacco products, (section 8H of the tobacco products duty act 1979).

We feel that if Mr Zeda was willing to indulge in criminal activities by selling none duty paid tobacco products so soon after opening the business, it would not be long before illegal none duty paid alcohol, or even counterfeit alcohol would be made available from the shop.

The licence on a premises allowing it to sell alcohol greatly increases the value of an existing business, however the ability to sell alcohol is not a right but is a privilege granted by the issue of a premises licence to a person who understands and complies with UK law and regulations.

Due to the criminal activity of Mr Zeda, and the complex, almost 'James Bond' style of hiding the illegal tobacco, we feel the only way forward is to remove and revoke the licence to send a strong message out that activities such as this will not be tolerated in Kirklees, and we respectfully request the panel consider that revocation is the only method of doing so.

I have also attached the report from trading standards, dated the 15th Aug 2017

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If you have made representations before relating to this premises, please state what they were and when you made them:

None made Before.

Please 'check' appropriate box(es)

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements, my application will be rejected

It is an offence, liable on conviction to a fine up to Level 5 on the standard scale, under Section 158 of the Licensing Act 2003, to make a false statement in, or in connection with this application

Part 3 – Signatures (please read Guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 4). If signing on behalf of applicant, please state in what capacity:

Signature: Date: 22nd Aug 17.
 Capacity: Police Licensing Officer.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read Guidance note 5):

Surname: Forename(s):
 Address:
 Town/City: Postcode:
 Telephone number (if any):
 If you would prefer us to correspond with you using an e-mail address, please state your e-mail address (optional):

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

At 22:54 the dog indicated tobacco on the first floor behind wooden slat panelling. There was a door disguised within the panelling which was operated by a small hidden micro switch. The door gave access to a large concealment which contained tobacco.

I seized the following from the concealment.

BAG NO	DESCRIPTIONS
ROO823461	340 X 50G AMBER LEAF
PO2656832	20 X TURNERS 50G
ROO823462	45 X 50G GOLDEN VIRGINIA
ROO823449	300 X 20 MAYFAIR
ROO823447	273 X 20 MAYFAIR
ROO823446	132 X 20 RICHMOND KINGSIZE
ROO823734	122 X 20 B & H OPTIONS
ROO801159	360 X 20 PECT
ROO823733	372 X 20 L&B
ROO801160	156 X 20 MARLBORO GOLD, 12 X 20 CHESTERFIELD, 4 X 20 QUEEN, 1 X 20 B&H, 1 X 20 LD BLUE, 26 X 20 L&M RED, 21 X 20 PALL MALL

At 02:05 I went back onto the shop floor and I seized 143 foreign labelled Cyclones and 62 Blunts bag number P01088474.

A series of photographs were taken during the visit which I now produce as evidence **JG1**. I gave a copy of the Record of Property Seized to Mr SALIHI and left the shop at 02:10.

NOTE : *If statements are typed double spacing should be used.
One side only of this paper should be used.*

(Signed)

Dated..... **Page 2 of 2**

WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

Statement of: Jon Griffiths

Age of witness: (if over 18 enter 'over 18') Over 18

Occupation: Regulatory Compliance Officer

This statement (consisting of _____ pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: 15/08/2017

Signature:

I am a Regulatory Compliance officer, based at, Nephshaw Lane South, Morley, Leeds LS27 7JQ appointed by West Yorkshire Trading Standards in May 2017. I am authorised to enforce provisions of the Trade Marks Act 1994, Tobacco & Related Product Regulations 2016, Consumer Protection Act 1987, and the Consumer Rights Act 2015.

On Saturday 22nd July 2017 I was involved in a multi agency operation with West Yorkshire Police, West Yorkshire Trading Standards and Wagtail UK.

At 22:29 I entered Kingsgate News Church St, Huddersfield HD1 2PT and issued a notice of Powers & Rights to a Mustafa SALIHI who was working behind the counter. I explained the reasoning for our visit and that we were going to take a look around for illegal tobacco with the aid of a tobacco detection dog . I asked if anyone else was on the premises, he said he was on his own

At approximately 22:40 Ibrahim SARKAWT entered the shop and said he worked at the shop as an assistant. He told me Mustafa has difficulty understanding English so he wanted to stay whilst we were there. I asked SARKAWT and SALIHI if they could contact the owner, they both said the owner was Bafir Hussain and they had no contact number for him.

NOTE : *If statements are typed double spacing should be used.
One side only of this paper should be used.*

(Signed)

Dated..... **Page 1 of 2**

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RESTRICTED
Photographs



Kings gate news

RESTRICTED
Photographs



Kingsgate news

Description	
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Licensing Act 2003
Premises Licence
PR(A)1623

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION
Kingsgate News

14 Cross Church Street, Huddersfield, West Yorkshire, HD1 2PT.

Telephone 07711 502 416

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday to Thursday	9:00am	11:00pm
	Friday	9:00am	11:00pm
	Saturday	9:00am	11:00pm
	Sunday	9:00am	11:00pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Thursday	9:00am	11:00pm
Friday	9:00am	11:00pm
Saturday	9:00am	11:00pm
Sunday	9:00am	11:00pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption OFF the premises only

Part 2

LICENSING
Flint Street Depot
Flint Street
Fartown
Huddersfield HD1 6LG

Tel: (01484) 456868
Fax: (01484) 456857

E-mail: licensing@kirklees.gov.uk
Website: <http://www.kirklees.gov.uk>

Licensing Act 2003
Premises Licence

PR(A)1623

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Mer Zada

52 Whiteacre Close, Huddersfield, West Yorkshire, HD2 1LU.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mer ZADA

52 Whiteacre Close, Huddersfield, West Yorkshire, HD2 1LU.

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. KMCPL4584

Issued by Kirklees

Licensing Act 2003
Premises Licence

PR(A)1623

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

Alcohol:

Mandatory Condition.

No supply of alcohol may be made under this licence:

- a. At a time when there is no designated premises supervisor in respect of the premises licence, or
- b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Mandatory Condition.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Condition.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- a. a holographic mark, or
- b. an ultraviolet feature.

Mandatory Condition.

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1 of this condition -

- a. "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);
- b. "permitted price" is the price found by applying the formula $P = D + (D \times V)$ where -
 - i. P is the permitted price,
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged

Licensing Act 2003
Premises Licence

PR(A)1623

ANNEXES continued ...

on the date of the sale or supply of the alcohol;

c. "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
i. the holder of the premises licence,
ii. the designated premises supervisor (if any) in respect of such a licence, or
iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;

d. "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

e. "value added tax" mean value added tax charged in accordance with the Value Added Tax Act 1994(b).

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

General Conditions.

Spirits of a high ABV will be sold behind the counter.

When the DPS is not on duty a contact telephone number will be available at all times.

Prevention of crime and disorder.

CCTV to be installed covering all licensable activity areas and the public entrance to the premises. The CCTV system to be installed and operated in accordance with West Yorkshire Police guidelines. Footage from the CCTV system to be made available on request to a police constable or representative of a responsible authority as defined by the licensing Act 2003.

The premises will operate and record all incidents of criminal activities, anti social behaviour and injuries to persons using the following compliance log books; Customer refusal, Authorisation of Alcohol, ID signature to assist the police and authorities in carrying out their investigations. all log books are fit for purpose and will be retained on the premises for 12 months.

Training will be provided to all non personal licence holders prior to them being allowed to sell alcohol and refresher training will be provided and training records kept and signed for by both the trainer and the employee identifying when the training was provided.

A point of sale prompt shall be available within the premises for all alcohol sales which require the operator to confirm the age of the customer to be over 18 years of age before selling alcohol. Refusals information shall be documented on the point of sale system and be available to the police and other regulatory authorities upon reasonable request.

In order to promote the prevention of crime and disorder, the prevention of public nuisance, public safety and protect children from harm licensing objectives, the premise shall not sell any type of mind altering psychoactive substance or the so called "legal highs" None of these type of products should be kept in any area of the premise.

Licensing Act 2003

Premises Licence

PR(A)1623

ANNEXES continued ...

Prevention of public nuisance.

The management will endeavor to discourage customers from standing outside the shop. Notices to be displayed requesting customers to leave the area quickly and quietly.

The protection of children from harm.

The premises will adopt the challenge 25 policy together with an age verification training scheme. The training subject matter will consist of age verification training scheme. The training subject matter will consist of underage sales, checking ID, proxy sales, basic conflict management and relevant areas of the licensing Act 2003 with the penalties for the breach. Refresher training will be carried out every 12 months. All training records to be stored on the premises and available for inspection by Authorised Officers. The only ID that will be accepted is a valid passport, British driving licenses and European Identity Cards the premises will also maintain an ID signature log book as an additional support. All refusals of sale for alcohol to suspected underage / drunk persons will be entered in a log book. Additional signage regarding proxy sales will be displayed near the alcohol sales areas. Notices will be displayed to this effect in prominent positions in the shop.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

ANNEX 4 - PLANS OF PREMISE

As outlined in the Operating Schedule and attached plan

Date granted: 18/04/2017

Date commences/varied: 18/04/2017



Head of Planning and Building Control Services

Licensing Act 2003

PR(A)1623**Premises Licence Summary**

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION**Kingsgate News**

14 Cross Church Street, Huddersfield, West Yorkshire, HD1 2PT.

Telephone 07711 502 416

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

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THE OPENING HOURS OF THE PREMISES

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WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption OFF the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Mer Zada

52 Whiteacre Close, Huddersfield, West Yorkshire, HD2 1LU.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)



LICENSING
Flint Street Depot
Flint Street
Fartown
Huddersfield HD1 6LG

Tel: (01484) 456868
Fax: (01484) 456857

E-mail:licensing@kirklees.gov.uk
Website:http://www.kirklees.gov.uk

Licensing Act 2003 **PR(A)1623**
Premises Licence Summary

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mer ZADA

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

As per licensing act 2003.

Any conditions applicable to these premises are attached to the Licence

Date granted: 18/04/2017

Date commences/varied: 18/04/2017

Head of Planning and Building Control Services

